

INTEGRATED COMMUNICATIONS GROUP CORPORATION

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APR 15 1996

April 15, 1996

**William F. Caton
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554**

**Re: Comments on Proposed Rulemaking on Rules for Auctioning the Remaining
Broadband PCS Licenses (WT Docket 96-59, GN Docket 90-314)**

Dear Mr. Caton:

We are participating in the C block auction currently underway. We wish to comment on the FCC Notice of Proposed Rulemaking. Our main points are:

- **the threshold definition of small business should be \$11 million and a new category with increased bidding credits of 40% should be created for very small businesses with a \$5 million threshold**
- **installment payment plans and other benefits should be available to designated entities in the D and E blocks with the most favorable terms for very small businesses**
- **if the D, E & F block licenses are auctioned concurrently DE's should be able participate in each block with access to bidding credits**
- **partitioning of licenses should be allowed if consummated with small DE's with partitioning rules adopted concurrent with the auction rules**
- **the attribution rules of the Sixth Report & Order should be rescinded and the attribution rules articulated in the Fifth Report & Order should be reinstated**
- **the rule on the limitations on licenses #24,710 should be changed to 25 million pops**

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We recommend a tiered definition of the size standard for small businesses. Very small for firms with average annual gross sales of less than \$5 million; and small for firms with average annual gross sales of less than \$11 million. Our recommendations on a new very small size standard is race and gender neutral yet inclusive of most women and minority owned firms. In light of available information that 99% of women as well as minority owned firms are \$1 million or smaller, coupled with the incomplete record developed by the FCC to pass the strict scrutiny standard of judicial review, this very small size standard would be responsive to the US Congress' directive to the FCC expressed in Section 309 Business Administration (SBA). The SBA size standards for businesses in telecommunications include:

- radiotelephone communications, industry (SIC Code) 4812 - \$5 million
- services not elsewhere classified, e.g. PCS, (SIC Code) 4988 - \$11 million

It is imperative that the FCC adopt a size standard for the 10 MHz auctions much smaller than the \$40 million standard used in the 30 MHz licenses. Adoption of a tiered size standard of \$5 million for very small and \$11 million for small sends the message that the FCC is not turning its back on minorities and women for the sake of race and gender neutrality. By the same token, the FCC would fulfill the intent of Congress, and Chairman Reed Hundt's stated policy on finding creative solutions to ensure minority opportunity. The US Congress directed the FCC to remedy the serious imbalance in the participation by certain groups, especially minorities and women. Congress' objectives are set forth in Section 309(j)(3)(B), of promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small business, rural telephone companies, and businesses owned by members of minority groups and women.

Past methods used by the FCC to allocate licenses have not opened doors for meaningful participation by small businesses including businesses owned by minorities and women. FCC Chairman Reed F. Hundt testified before the House Minority Enterprise Subcommittee on May 20, 1994, and stated, "...in light of this serious underrepresentation, there 'remains a fundamental obligation for both Congress and the FCC to examine new and creative ways to ensure minority opportunity.'"¹ The FCC has stated

¹ Testimony of Reed E. Hundt, Chairman, Federal Communications Commission before the House Minority Enterprise Subcommittee, May 20, 1994

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that, "The record indicates that, in the absence of meaningful efforts to assist designated entities, there would be good reason to think that participation by those groups, particularly businesses owned by women and minorities, would continue to be severely limited."²

Testimony was presented to the FCC at its En Banc hearing on spectrum policy held March 5, 1996, reminding the FCC of its responsibility to ensure full participation of small businesses and companies owned by women and members of minority groups. Participation by businesses owned by minorities and women are severely limited even in the small "entrepreneurs" auction designed to maximize their participation.

The FCC was alerted to this likely outcome before the final rules were adopted. Several of our stockholders submitted to the Commission evidence supporting a petition for reconsideration of the Competitive bidding Sixth Report and Order. Additional entities also petitioned the FCC to use a small size standard such as \$5 million. They included the National Council of La Raza, the League of United Latin Americans, the American Hispanic Owned Radio Association, and Ondas Communications Services Inc.. In addition, letters in support of a \$5 million size standards were submitted by the Chicano Federation of San Diego County, the Asian Business Association of San Diego County, the CDC Small Business finance Corporation, and San Diego Councilman Juan Vargas.

The FCC should require that an entity be in existence at least 6 months before the start of the broadband auctions.

The FCC rules on attribution from the Sixth Report & Order should be rescinded and the rules from the Fifth Report & Order should be reinstated to eliminate abuses and retain the integrity of the intent of Congress and create meaningful opportunity for very small and small business entities.

The results of the C block auction are the most current statistical evidence showing limited access for minorities to public assets controlled by the FCC.

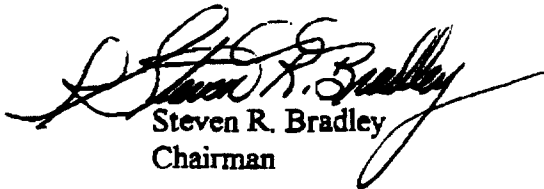
To increase the opportunities for minorities and women as well as disseminating licenses among a wide variety of applicants, the FCC should allow PCS licenses to partition their licenses. The public interest would be served if PCS spectrum partitioning is allowed under limited conditions. If partitioning was limited to very small and small firms under

² Competitive bidding Fifth Report and Order adopted June 29, 1994, #110, page 48

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\$11 million, and additional race and gender neutral solution would exist to address the need of promoting economic opportunity and competition for minorities, women and other diverse entities as well widely disseminating valuable public assets.

Sincerely yours,



Steven R. Bradley
Chairman

Encl.: Standard Industrial Classification Manual, 1987, pp. 282-283

TRANSPORTATION AND PUBLIC UTILITIES

283

Industry
Group
No.Industry
No.

483

RADIO AND TELEVISION BROADCASTING STATIONS

4832 Radio Broadcasting Stations

Establishments primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Also included here are establishments primarily engaged in radio broadcasting and which produce radio program materials. Separate establishments primarily engaged in producing radio program materials are classified in Services, Industry 7922.

Radio broadcasting stations

4833 Television Broadcasting Stations

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified in Services, Industry 7812. Establishments primarily engaged in furnishing cable and other pay television services are classified in Industry 4841.

Television broadcasting stations

484

CABLE AND OTHER PAY TELEVISION SERVICES

4841 Cable and Other Pay Television Services

Establishments primarily engaged in the dissemination of visual and textual television programs, on a subscription or fee basis. Included in this industry are establishments which are primarily engaged in cablecasting and which also produce taped program materials. Separate establishments primarily engaged in producing taped television or motion picture program materials are classified in Services, Industry 7812.

Cable television services
Closed circuit television services
Direct broadcast satellite (DBS) services
Multipoint distribution systems (MDS)
services

Satellite master antenna systems
(SMATV) services
Subscription television services

489

COMMUNICATIONS SERVICES, NOT ELSEWHERE CLASSIFIED

4899 Communications Services, Not Elsewhere Classified

Establishments primarily engaged in furnishing communications services, not elsewhere classified. Establishments primarily engaged in providing on-line information retrieval services on a contract or fee basis are classified in Services, Industry 7375.

Radar station operation
Radio broadcasting operated by cab
companies
Satellite earth stations

Satellite or missile tracking stations,
operated on a contract basis
Tracking missiles by telemetry and
photography on a contract basis

282

Major Group 48.—COMMUNICATIONS

The Major Group as a Whole

This major group includes establishments furnishing point-to-point communications services, whether intended to be received aurally or visually; and radio and television broadcasting. This major group also includes establishments primarily engaged in providing paging and beeper services and those engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing telephone answering services are classified in Services, Industry 7389.

Industry Group No.	Industry No.
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481 TELEPHONE COMMUNICATIONS

4812 Radiotelephone Communications

Establishments primarily engaged in providing two-way radiotelephone communications services, such as cellular telephone services. This industry also includes establishments primarily engaged in providing telephone paging and beeper services and those engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing telephone answering services are classified in Services, Industry 7389.

Beeper (radio pager) communications services
Cellular telephone services

Paging services: radiotelephone
Radiotelephone communications

4813 Telephone Communications, Except Radiotelephone

Establishments primarily engaged in furnishing telephone voice and data communications, except radiotelephone and telephone answering services. This industry also includes establishments primarily engaged in leasing telephone lines or other methods of telephone transmission, such as optical fiber lines and microwave or satellite facilities, and reselling the use of such methods to others. Establishments primarily engaged in furnishing radiotelephone communications are classified in Industry 4812, and those furnishing telephone answering services are classified in Services, Industry 7389.

Data telephone communications
Local telephone communications, except radio telephone
Long distance telephone communications

Voice telephone communications, except radio telephone

482

TELEGRAPH AND OTHER MESSAGE COMMUNICATIONS

4822 Telegraph and Other Message Communications

Establishments primarily engaged in furnishing telegraph and other nonvoiced message communications services, such as cablegram, electronic mail, and facsimile transmission services.

Cablegram services
Electronic mail services
Facsimile transmission services
Mailgram services
Photograph transmission services

Telegram services
Telegraph cable services
Telegraph services
Teletypewriter services



an alternative communication solution

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Re: Comments on Proposed Rulemaking on Rules for Auctioning the Remaining
Broadband PCS Licenses (WT Docket 96-59, GN Docket 90-314)

Dear Mr. Caton:

As a participant in the C block auction that is currently in progress, we wish to make our views known regarding the FCC Notice of Proposed Rulemaking.

While the intent of Congress was to help small businesses enter the wireless market, the current C block auctions do not fairly represent "small business" in the true sense of the word. Unless there are substantial changes in the upcoming auctions the outcome will no doubt be the same. We do not pretend to offer the perfect solution to the current problem. However, we do believe that without providing investment incentives that will allow a small firm to be competitive, small business will not be represented in this unique opportunity. The inability to distinguish truly small companies from firms that are supported by major players presents an enormous barrier to market entry for the small businesses.

A major problem for small companies looking to enter the next auction is the fact that the rules have not yet been published. Without published rules, small companies are unable to have meaningful discussions regarding this opportunity with potential investors. Only the firms that are well connected financially will be able to react to this opportunity in a very short period of time.

In order to truly assess the appropriate changes that need to be made for the upcoming auction, the companies that initially indicated a willingness to participate in the C block auction by filing a short form would be the best people to assist in changes for the upcoming auction. However, the current rules prohibit participants in the current auction from discussing issues relative to

the outcome of the current auction. If additional time were allocated to crafting the rules for small companies, we would be more likely to have a better representation of such companies. While we recognize many large companies are anxious to have the next set of auctions take place, those interests do not necessarily serve small businesses.

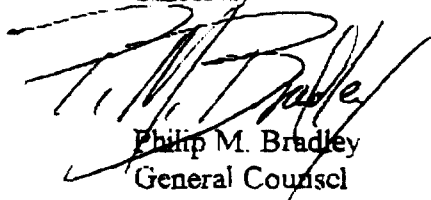
We are being asked to define the rules of the next auction while the current auction has not ended. Additionally, we have not had the opportunity to assess the C block implications. We fully expect the FCC to conduct an after-action seminar with the C block winners. The same type of activity should be held with all the companies that previously filed a short form. Only with this type of forum will other small businesses truly have the opportunity to address the issues and concerns that have surfaced during the current auction.

Chairman Hundt has on several occasions recently expressed his concern over the prices of the C block auction in relation to the previous auction. Just as Chairman Hundt is concerned about the C block prices, potential F block investors are equally concerned that small companies will not have a real opportunity.

Our other point, while not a part of the upcoming rules, that we would like to make is to allow the A and B block companies to partition their licenses to truly small businesses without additional FCC guidance. The A and B companies have paid for their licenses and have expressed a willingness to work with small companies to enter certain segments of the market. However, the current rules prohibit this from happening with the exception to rural telephone companies operating within their geographic region. We believe that in light of the current C block auctions, the FCC should reconsider this barrier to market entry which prohibits small businesses from participating with A and B companies. We also believe this will also speed the delivery of services to the smaller communities that could conceivably be under-served.

Integrated Voice Sys has brought these concerns to the attention of the FCC as party of a petition for Reconsideration filed August 21, 1995. We believed then and we believe now that the intent of Congress was to provide opportunities for small companies to participate in this new opportunity. It has now become apparent that the provision for small companies has not been well served. It should be apparent by now that smaller businesses are willing to pay more to enter the market but the rules need to be revised to level the playing field to allow for some participation by small firms.

Sincerely



Philip M. Bradley
General Counsel



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Re: Comments on Proposed Rulemaking on Rules for Auctioning the
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DOCKET 90-314)

Dear Mr. Caton:

Columbia Cellular, Inc., ("Columbia") as a shareholder and as a member of the control group of Integrated Communications Group Corporation ("ICG") is a participant in the present C Block auction.

Columbia makes the following comments concerning modifying the existing rules which we feel are necessary in order to insure legitimate opportunities to legitimate small businesses, including minority and women owned businesses in the upcoming D, E & F Block auctions of 10 MHz licenses:

- We agree with the FCC's conclusion that the F Block race based provisions require more supporting evidence and that the present record may also be insufficient to support the F Block gender based provisions. We are disappointed that the FCC did not establish sufficient support for race based and gender based provisions. However, we realize the Commission was operating under budget and time constraints.
- Under the circumstances the F Block rules and the D & E Block rules should be race and gender neutral to avoid the risk of litigation. However, we believe the threshold definition of small businesses should be lowered to \$11 million and a new category of increased bidding credits of 40% should be created for "very small" businesses which would have a \$5 million threshold.
- Installment payment plans and other benefits should be available to certain Designated Entities ("DEs") in the D & E Blocks (in addition to the F Block) with the most favorable terms for very small businesses. No installment payments should be made available in the D & E Blocks for any businesses that do not qualify as small or very small.

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- We would favor the F Block auctions being auctioned first before the D & E Block. However, if D, E & F Block licenses are to be auctioned concurrently, small businesses and very small businesses should be able to participate in each Block with the access to the same bidding credits allowed for the F Block. Participation in the F Block should still be restricted to participation by DEs.
- Partitioning of licenses should be allowed if consummated with small businesses or very small businesses and the partitioning rules should be adopted prior to, if possible, or, no later than concurrently with the auction rules. Incentives to encourage partitioning should be considered.
- The FCC should adopt, prior to the auction rules if possible, or, no later than concurrently with the auction rules, rules to protect, (perhaps by providing mandatory margins) small businesses and very small businesses so that they may compete with carriers as resellers of wireless services including PCS and cellular.
- The attribution rules adopted in the Sixth Report and Order should be rescinded and the attribution rules articulated in the Fifth Report and Order should be reinstated so that the abuses that were created in the C Block auction having to do with categorization of small businesses and minority and women owned businesses may be eliminated.
- The Commission should not relax (or simplify if loopholes are created), the cellular /PCS cross ownership limitation rules. If these rules were relaxed larger, telecommunication companies would simply become larger which would further limit the ability of small and very small businesses to compete.
- The rules relating to the transfer of broadband licenses should be modified only to the extent of relaxing the rules for all transfer of licenses to small and very small businesses. Transfers should be allowed, under the present look back rules to small businesses and very small businesses who previously acquired other licenses. The rules should not be modified to allow earlier transfer to larger DEs or non DEs.

We have read the comments of our co-shareholders of ICG, a participant in the C Block auction, (i.e., Opportunities Now Enterprises (O.N.E.), Inc. and Integrated VoiceSys.) and we substantially agree with their points and therefore feel that it is

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unnecessary to restate them herein. We also endorse the comments of ICG and incorporate them herein by this reference.

**COLUMBIA HAS PERSONALLY EXPERIENCED DIFFICULTY AS A SMALL
MINORITY OWNED BUSINESS COMPETING WITH THE LARGE CARRIERS.**

We believe the above recommended changes and/or rules are necessary in order to place very small businesses in a position where they have an opportunity to compete and provide value added wireless services so that the telecommunications industry will more properly reflect the diversity of our great nation.

Before giving specific examples of the difficulties encountered by Columbia, it is necessary first to give a short background of Columbia.

Columbia was founded in 1991 and is certified by the City of Los Angeles and verified by the California Public Utilities Clearinghouse as a Minority Business Enterprise ("Hispanic").

Columbia, as a reseller, is a public utility primarily engaged in the providing of cellular air time and paging services for voice communications and data transmission.

To support the providing of wireless services, Columbia also provides wholesale distribution, installation, service, repair and maintenance of cellular telephone, paging and ancillary equipment. In addition, Columbia provides consulting services for cellular, paging and other wireless telephone use, including designing of custom programs for cellular air time, back-up emergency wireless systems, maintenance and acquisition of cellular telephone equipment and cost saving analysis of cellular billing.

As a reseller, with a Certificate of Necessity issued by the California Public Utilities Commission, Columbia is able to purchase cellular air time from all carriers in California and competes by reselling air time directly to users, including major users, at rates which are competitive with the cellular carriers.

Columbia's customers include major cellular users in Southern California, including the Southern California Gas Company, City of Los Angeles and numerous other major accounts.

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Columbia has recently been selected for special recognition as one of the top five suppliers of the Southern California Gas Company.

During our history we have experienced the following difficulties as a small public utility competing as a reseller against cellular carriers in the Southern California market:

1. The carriers in California operate on a free cash flow of approximately 40% of gross revenues and yet they have consistently sought to minimize the "gross margin" of resellers such that it is difficult for resellers to compete with the duopoly carriers in Southern California. It is interesting to note, but not surprising, that the A & B cellular carriers' rates essentially mirror each other. Resellers, despite their low "gross margins," have rates lower than the carriers.
2. The California Public Utility Commission adopted rules to encourage contracting with minority and women owned businesses. These rules however, specifically excluded the requirement that the public utilities must themselves deal with minority or women owned public utilities. When the PUC was questioned on this point by Columbia, they responded that they never anticipated that a minority or women owned business would itself be a public utility.
3. Representatives of the cellular carriers, when competing for business with Columbia and other resellers, have "bad mouthed" resellers stating among other things that resellers are unreliable and financially incapable of competing with the carriers and therefore are doomed to fail.

Notwithstanding this "bad mouthing," because of the social conscience of certain entities such as the City of Los Angeles and the Southern California Gas Company, they have been willing to give minority companies an opportunity to compete and to prove themselves. One result of that opportunity is that the Southern California Gas Company has recently publicly recognized Columbia Cellular as one of its top five suppliers.

The American Dream is that every small entrepreneur has an opportunity to succeed or fail in business. There is no guaranty of success and nobody expects such a guaranty; however, what is expected and should be expected is that small business, including minority and women owned businesses, should be given the opportunity to participate in the telecommunications industry. It is obvious by the

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history to date, that without the assistance of the Commission, there will never be an opportunity for small businesses to compete in the telecommunications industry.

Thank you very much for the opportunity to present these comments.

Very truly yours,

COLUMBIA CELLULAR, INC.

By. 

GERARD G. ADAMS, PRESIDENT

GGA:dfg